

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street,  
P.O. Box 112  
Trenton, New Jersey 08625-0112  
*Attorney for Defendants New Jersey Department of Corrections and Marcus O. Hicks*

By: Niccole L. Sandora  
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Deputy Attorney General  
(609) 376-2958  
[Niccole.Sandora@law.njoag.gov](mailto:Niccole.Sandora@law.njoag.gov)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
NEWARK VICINAGE

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James Grushack,

Plaintiff,

v.

New Jersey Department of Corrections;  
Marcus O. Hicks, in his official  
capacity as Commissioner of the NJ  
Department of Corrections; New Jersey  
Department of Human Services; Carole  
Johnson, in her official capacity as  
Commissioner of the NJ Department of  
Human Services; New Jersey Department  
of Health; Judith M. Persichilli, , in  
her official capacity as Commissioner  
of the NJ Department of Health;  
Merrill Main; Marc Sims; George  
Robinson; James Slaughter; Ken Rozov;  
Shantay Adams; Dr. Dooreen Stanzione;  
Therapist Doe 1-2; John Doe  
Corrections Officers 1-3; John Doe 1-  
10 and State Agency 1-10.

Defendants.

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:  
HON. JOHN MICHAEL VAZQUEZ, U.S.D.J.  
:  
HON. MARK FALK, U.S.M.J.

: CIVIL ACTION NO. 2:21-CV-00623

**CERTIFICATION IN SUPPORT OF  
DEFENDANTS' MOTION TO DISMISS**

I, NICCOLE L. SANDORA, of full age, hereby certify:

1. I am licensed to practice law in the State of New Jersey  
and am admitted to practice before the United States District

Court, District of New Jersey. I am employed by the State of New Jersey Office of the Attorney General, Department of Law and Public Safety, Division of Law as a Deputy Attorney General.

2. I submit this certification on behalf of Defendants Department of Corrections and Marcus O. Hicks, in support of their Motion to Dismiss Plaintiff's Complaint.

3. Attached hereto as "Exhibit A" is a true and accurate copy of a certification prepared by Peter Ramos, Supervisor of Claims, State of New Jersey, Department of the Treasury, Division of Risk Management regarding Plaintiff James Grushack's Notice of Tort Claim, which was received by the Division of Risk Management on or about February 6, 2020.

4. Attached hereto "Exhibit B," is a true and accurate copy of the Notice of Tort Claim, received by the Division of Risk Management on or about February 6, 2020.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

/s/ Niccole L. Sandora

Niccole L. Sandora  
Deputy Attorney General

**Date:** May 10, 2021

# Exhibit A

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY  
R.J. Hughes Justice Complex  
25 Market Street,  
P.O. Box 112  
Trenton, New Jersey 08625-0112  
*Attorney for Defendants New Jersey Department of Corrections and Marcus O. Hicks*

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Defendants.

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: HON. JOHN MICHAEL VAZQUEZ, U.S.D.J.  
: HON. MARK FALK, U.S.M.J.

: CIVIL ACTION NO. 2:21-CV-00623

**CERTIFICATION OF PETER RAMOS**

I, PETER RAMOS, being of full age, hereby certify as follows:

1. I am employed as the Supervisor of Claims, State of New Jersey, Department of the Treasury, Division of Risk Management and have been at all times relevant to the within action.

2. As part of my regular duties, I am responsible for the custody of all notices of claim filed with the State of New Jersey, Department of the Treasury, Division of Risk Management pursuant to N.J.S.A. 59:8-7, et seq., and N.J.S.A. 59:13-5, et seq.

3. Pursuant to those duties, and in the regular course of business, this office keeps records of all notices of claim so filed.

4. I submit this Certification on behalf of Defendants New Jersey Department of Corrections and Marcus O. Hicks in support of their Motion to Dismiss Plaintiff's Complaint.

5. At the request of the Office of the Attorney General of New Jersey, the Division of Risk Management files were checked to determine whether the plaintiff, James Grushack, had filed a notice of tort claim concerning the claims raised in his Complaint.

6. A diligent search of these records maintained by my office located one notice of claim form submitted by or on behalf of James Grushack. The claim form located was received on February 6, 2020, and the claim listed pertained to personal injuries, alleged violations of the "Prison Rape Elimination Act", and emotional pain and suffering sustained as a result of the alleged negligent actions of employees of the Department of Corrections, Department of Health, and Department of Human Services. The date

of the occurrence or accident which gave rise to this claim lists only November 9, 2019.

7. A review of our files failed to find any record of any additional notice of claims filed from 2018 to present related to this case.

I hereby certify that the foregoing statements are true. I am aware that, if any of the foregoing statements are willfully false, I am subject to punishment.

Sign:

A handwritten signature in black ink, appearing to read "Peter Ramos", is written over a horizontal line.

Print:

Peter Ramos

Date: May 4, 2021

# Exhibit B



## State of New Jersey

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

DEPARTMENT OF THE TREASURY  
DIVISION OF RISK MANAGEMENT  
P.O. Box 620  
TRENTON, NJ 08625-0620  
TELEPHONE: (609) 292-1850  
FAX: (609) 292-2437

ELIZABETH MAHER MUOIO  
*State Treasurer*

MICHAEL D. SMITH  
*Acting Director*

Feb. 19, 2020

Adult Diagnostic & Treatment Center  
8 Production Way, P.O. Box 905  
Avenel, NJ 07001-1660  
Attn: Deborah Maloney, Litigation Liaison

Our File #: 19-8274-kab  
Claimant: James M. Grushack  
D/A: 11/09/2019  
Loc: ADTC - STU  
Avenel, NJ

Dear Ms. Maloney:

Be advised that the claimant listed above has filed a Notice of Claim against the Department of Corrections, wherein, it is alleged that he sustained personal injuries as a result of the negligent actions of your Department and its employees.

In order to properly evaluate the matter, would you please forward copies of any and all incident reports, along with copies of an Internal Affairs investigation report, if any? By way of this letter, I am requesting that Karin Burke of DOC Central Office provide a copy of the inmate's medical records from date of incident to present.

I have attached a copy of the Notice of Claim, for your reference. Please refer to our file number in your reply. Thank you for your anticipated cooperation.

Respectfully,

*Krista A. Beres*

Krista A. Beres, Claims Investigator 2  
Tort and Contract Unit  
Krista.Beres@treas.nj.gov  
609-984-2952

Enclosures

cc: Karin Burke, Assistant Director  
PO Box 863, Whittlesey Rd.  
Trenton, NJ 08625



## INITIAL NOTICE OF CLAIM FOR DAMAGES AGAINST THE STATE OF NEW JERSEY

FORWARD TO: TORT AND CONTRACT UNIT  
DEPARTMENT OF THE TREASURY, BUREAU OF RISK MGMT.  
PO BOX 620  
TRENTON, NEW JERSEY 08625  
PHONE: (609) 292-4347

RECEIVED

FEB 06 2020

DIVISION OF RISK MANAGEMENT **FORM MUST BE FILED WITHIN 90 DAYS OF THE ACCIDENT OR YOU MAY FORFEIT YOUR RIGHT**

## 1. CLAIMANT:

Grushack	James	M
LAST NAME	FIRST	MIDDLE
STU - North, PO Box 905		
STREET ADDRESS		
Avenel	NJ	07001
CITY	STATE	ZIP CODE

DATE OF BIRTH

MAILING ADDRESS IF OTHER THAN STREET ADDRESS

SOCIAL SECURITY NUMBER

## 2. IF NOTICES AND CORRESPONDENCE IN CONNECTION WITH THIS CLAIM ARE TO BE SENT TO A PERSON OTHER THAN CLAIMANT, COMPLETE ITEM #2.

Edward J. Hesketh, Esq.		
NAME		
Clinton	NJ	08809
CITY	STATE	ZIP CODE

54 Old Highway 22, Suite 251

MAILING ADDRESS

908-243-0800

RELATIONSHIP TO CLAIMANT: ATTORNEY AT LAW ☒ OR EXPLAIN RELATIONSHIP

THE OCCURRENCE OR ACCIDENT WHICH GAVE RISE TO THIS CLAIM:

3a.

11/9/2019	Evening
DATE	TIME

b. DESCRIBE THE LOCATION OR PLACE OF THE ACCIDENT OR OCCURENCE.

Avenel, Middlesex County

MUNICIPALITY

ADTC

Special Treatment Unit, Avenel

EXACT LOCATION OF THE OCCURRENCE

1/31/20

**c. DESCRIBE HOW THE ACCIDENT OR OCCURENCE HAPPENED: IF A DIAGRAM WILL ASSIST YOUR EXPLANATION, PLEASE USE THE REVERSE SIDE OF THIS FORM.**

Claimant was forced to perform oral sex by inmate Romano Brook, #511. Brook either sexually assaulted or exposed himself to inmates at the facility at least 12 times, including the incident with Claimant. Brook was written up for every sexual assault, yet was still allowed in the STU wing with the rest of the residents. Despite this common knowledge, Brook was allowed to mingle with the rest of the residents and continue his sexual harassment.

**d. STATE THE NAME AND ADDRESS OF THE STATE AGENCY OR AGENCIES THAT YOU CLAIM CAUSED YOUR DAMAGE.**

NJ Department of Corrections - Whittlesey Road, PO Box 863, Trenton, NJ 08625

NJ Department of Health - 369 S. Warren Street, Trenton, NJ 08608

NJ Department of Human Services - 222 South Warren Street, PO Box 700, Trenton, NJ 08625-0700

**STATE THE NAMES OF STATE EMPLOYEES WHOM YOU CLAIM WERE AT FAULT, INCLUDING ANY INFORMATION THAT WILL ASSIST IN IDENTIFYING AND LOCATING THEM.**

Fault lies on State employees from top to bottom. As best as Claimant can recall the following specific individuals are at fault: Marcus Hicks, Esq. (Commissioner DOC), a "Mr. Angelo" (working in the admin department), Correction Officers Conway, Officer Imoka, and Officer Matthews (at the Avenel location), Therapist Kros (Avenel location), Ken Rosov (DOC Ombudsman), Chesta O'Neil (DOC Commissioner's office),

**e. STATE THE NEGLIGENCE OR WRONGFUL ACTS OF THE STATE AGENCY AND STATE EMPLOYEES WHICH CAUSED YOUR DAMAGES.**

The Special Treatment Unit and associated State agencies failed to protect Claimant from sexual assault by continuing to allow Inmate Romano Brook to reside at the STU with other residents, despite knowledge of at least 12 instances of rape/sexual assault/indecent exposure. The STU and associated State agencies continued to allow Brook to remain in close proximity even after Claimant reported the incidents to with Brook to Corrections Officers and the DOC Commissioner, among many other State employees.

**f. STATE THE NAME AND ADDRESS OF ALL WITNESSES TO THE ACCIDENT OR OCCURRENCE.**

Claimant, Romano Brook, the following inmates: Robert Bond, John Geere, Kevin Hildreth, Harry Houser, Patrick Lewis, David Snow, Kenneth Stahl, Leon Swift. DOC employees named in part (d) above.

**g. STATE THE NAMES OF ALL POLICE OFFICERS AND POLICE DEPARTMENTS WHO INVESTIGATED THIS ACCIDENT.**

Special Investigator Joseph Conway, from SID (732-669-8022)

Detective McHenry, AG's Office (609-376-2330)

This incident was also sent to the Middlesex County Prosecutor's Office for review

**a. CLAIM FOR DAMAGES (CHECK APPROPRIATE BLOCK):**

☐ PERSONAL INJURY ☐ PROPERTY DAMAGE

☒ OTHER - EXPLAIN IN DETAIL Emotional pain and suffering, violations of the Prison Rape Elimination Act

**b. IF YOU CLAIM PERSONAL INJURY:****(1) DESCRIBE YOUR INJURIES RESULTING FROM THIS ACCIDENT OR OCCURRENCE.**

Claimant is not claiming physical injuries.

**(2) DO YOU CLAIM PERMANENT DISABILITY RESULTING FROM THIS INJURY:**

☐ YES ☒ NO

IF YES, DESCRIBE THE INJURIES BELIEVED TO BE PERMANENT.

N/A

**(3) FOR EACH HOSPITAL, DOCTOR OR OTHER PRACTITIONER RENDERING TREATMENT, EXAMINATION OR DIAGNOSTIC SERVICES, STATE:**

NAME OF HOSPITAL, DOCTOR OR OTHER FACILITY	ADDRESS	DATES OF TREATMENT OR SERVICE	AMOUNT OF CHARGE TO DATE	AMT. PAID OR PAYABLE BY OTHER SOURCE SUCH AS INSURANCE
N/A				

**(4) IF YOU CLAIM LOSS OF WAGE OR INCOME AS A RESULT OF THE INJURY STATE:**

N/A

NAME OF EMPLOYER

ADDRESS OF EMPLOYER

YOUR OCCUPATION

DATE YOU BECAME EMPLOYED

RATE OF PAY

DATE OF ABSENCE FROM WORK

TOTAL LOSS WAGES TO DATE

IF STILL OUT, EXPECTED DATE OF RETURN

NOTE: IF YOUR CLAIMED LOSS OF INCOME ARISES FROM SELF-EMPLOYMENT OR OTHER THAN WAGE, ATTACH A CALCULATION SHOWING THE BASIS OF YOUR CALCULATION OF LOST INCOME.



**(5) SET FORTH ANY AND ALL OTHER LOSSES OR DAMAGE CLAIMED BY YOU.**

Claimant has suffered severe emotional and mental trauma as a result of these incidents. These incidents have also severely hampered Claimant's rehabilitative efforts at the STU due to his constant fear of future rapes/assault. Plaintiff's ADHD and Bipolar Disorder have been exacerbated due to this trauma. In addition, Claimant claims damages for negligence and failing to enforce the New Jersey Zero Tolerance Policy - The Prison Rape Elimination Act (PREA).

**C. IF YOU CLAIM PROPERTY DAMAGE:****(1) DESCRIBE THE PROPERTY DAMAGED.**

N/A

**(2) THE PRESENT LOCATION AND TIME WHEN THE PROPERTY MAY BE INSPECTED.**

N/A

**(3) DATE PROPERTY ACQUIRED.** N/A**(4) COST OF PROPERTY** \$ N/A**(5) VALUE OF PROPERTY AT TIME OF ACCIDENT:** \$ N/A**(6) DESCRIPTION OF DAMAGE.**

N/A

**(7) HAS THE DAMAGE BEEN REPAIRED?** N/A **IF SO, BY WHOM, WHEN AND COST OF REPAIRS.****(8) ATTACH EACH ESTIMATE OF REPAIR COSTS TO THIS FORM.****(9) SET FORTH IN DETAIL THE LOSS CLAIMED BY YOU FOR PROPERTY DAMAGE.**

N/A

**d. SET FORTH IN DETAIL ALL OTHER ITEMS OF LOSS OR DAMAGES CLAIMED BY YOU AND THE METHOD BY WHICH YOU MADE THE CALCULATION.**

N/A

5. THE AMOUNT OF THE CLAIM. To be determined \_\_\_\_\_

6. HAVE YOU MADE A CLAIM AGAINST ANYONE ELSE FOR ANY OF THE LOSSES OR EXPENSES CLAIMED IN THIS NOTICE?

No. \_\_\_\_\_

IF YES, SET FORTH THE NAME AND ADDRESS OF ALL PERSONS AND INSURANCE COMPANIES AGAINST WHOM YOU HAVE MADE SUCH CLAIMS:

N/A \_\_\_\_\_

7. ARE ANY OF THE LOSSES OR EXPENSES CLAIMED HEREIN COVERED BY ANY POLICY OF INSURANCE?

Defendant has no information as to any insurance policies. \_\_\_\_\_

FOR EACH SUCH POLICY, STATE THE NAME AND ADDRESS OF THE INSURANCE COMPANY, POLICY NUMBER AND BENEFITS PAID OR PAYABLE

N/A \_\_\_\_\_

8. HAVE YOU RECEIVED OR AGREED TO RECEIVE ANY MONEY FROM ANYONE FOR THE DAMAGES CLAIMED HEREIN?

☐ YES ☒ NO

IF YES, SET FORTH THE DETAIL OF SUCH AGREEMENT.

N/A \_\_\_\_\_


9. THE FOLLOWING ITEMS MUST BE SUBMITTED WITH THIS NOTICE:

- (1) COPIES OF ITEMIZED BILLS FOR EACH MEDICAL EXPENSE AND OTHER LOSSES AND EXPENSES CLAIMED.
- (2) FULL COPIES OF ALL APPRAISALS AND ESTIMATES OF PROPERTY DAMAGE CLAIMED BY YOU.
- (3) COPIES OF ALL WRITTEN REPORTS OF ALL EXPERT WITNESSES AND TREATING PHYSICIANS.
- (4) A LETTER FROM YOUR EMPLOYER VERIFYING YOUR LOST WAGES. IF SELF-EMPLOYED, A STATEMENT SHOWING THE CALCULATION OF YOUR CLAIMED LOST INCOME.

I HEREBY CERTIFY THAT THE FOREGOING STATEMENTS MADE BY ME ARE TRUE. THAT THE ATTACHED STATEMENTS, BILLS, REPORTS AND DOCUMENTS ARE THE ONLY ONES KNOWN TO ME TO BE IN EXISTENCE AT THIS TIME. I AM AWARE THAT IF ANY STATEMENT MADE HEREIN IS WILLFULLY FALSE OR FRAUDULENT, THAT I AM SUBJECT TO PUNISHMENT PROVIDED BY LAW.

1/31/20

DATE



CLAIMANT OR PERSON FILING ON BEHALF OF CLAIMANT